IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13559 of 2004

Between:

G.F. Ravi Kumar Reddy S/o. Balajoji Reddy
Renta Chinthala, Guntur District.

..... PETITIONER

AND

1 Collector & District Magistrate, Guntur.
2 Chief Secretary, Govt of A.P., Secretariat, Hyd.
3 Superintendent, Central Prison, Rajahmundry, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus under Article 226 of the Constitution of India directing the Respondents to produce Gade Bala Joji Reddy S/o. Francis Reddy now detained in Central Prison, Rajahmundry, before this Hon'ble Court and he may be ordered to be released forthwith after declaring that his detention is illegal and void .

Counsel for the Petitioner:MR.BATHULA RAJ KIRAN

Counsel for the Respondent No.: THE ADVOCATE GENERAL

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki).

Heard learned counsel for the parties.

This is an habeas corpus petition challenging an order of detention, dated 19-07-2004, passed by the District Magistrate, Guntur. The order is passed purportedly under the provisions of the Andhra Pradesh Preventive Detention Act, 1970 (for short "the 1970 Act").

Learned Senior Counsel appearing for the writ petitioner submitted that the 1970 Act itself is not in force. The 1970 Act got superceded with the promulgation of the National Security Act, 1980. Even after the National Security Act, 1980 (for short "the 1980 Act"), another Act was passed by the State of Andhra Pradesh being Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Gundas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short "the 1986 Act"). The 1986 Act got even the Presidential approval and in terms of Section 17 of the 1986 Act it was made clear that on and after the commencement of this Act, no order of detention in respect of any person shall be made even under the 1980 Act. Since the field was occupied by the Central Act, therefore, there was no question of exercising any power under the 1970 Act. The position has fairly been conceded by the Advocate-General that it was a mistake that the order of detention had been passed under the 1970 Act.

In this view of the matter, we allow the writ petition, quash the order of detention and direct that the detenue shall be released forthwith. Since the detenue has been put behind bars and liberty has been denied to him for exactly a month without any authority of law, therefore, we award compensation of Rs.5,000/- (Rupees five thousand only) to be paid to him, within a period of two weeks from today.

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(BILAL NAZKI, J)

18th August, 2004.

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(S.ANANDA REDDY, J)

vrn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the Eighteenth day of August, Two thousand and Four.

To

1 Collector & District Magistrate, Guntur.
2 Chief Secretary, Govt of A.P., Secretariat, Hyd.
3 Superintendent, Central Prison, Rajahmundry, E.G.District.

4 Two C.D copies